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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Rinko Katsuda

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EXAMINER

DOUYON, LORNA M

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,886

Applicant(s)

KATSUDA ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to ~~communication(s)~~ filed on RCE filed February 16, 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,9-11 and 13-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7, 9-11, 13-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 16, 2006 has been entered.
2. Claims 1, 7, 9-11, 13-23 are pending.

Claim Objections

3. Claims 13 and 14 are objected to because of the following informalities: the term "having" in line 2 of each claim should be replaced with "have".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The lower limit in the limitation "fatty acids containing from 10 to 30 carbon atoms" in line 2 is nowhere supported in the specification. On page 14, line 8 of the specification, the minimum

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number of carbon atoms is “12” and not “10”. It is suggested that “10” be replaced with “12” to overcome this rejection.

5. Claims 19, 20, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 is indefinite because “alkyl N-methyl glucamide” is not a fatty acid.

Presumably, Applicants meant “polyhydroxy fatty acid amide” in place of the “fatty acid”. It is also suggested that the claim depend from claim 1 and not claim 18.

Claim 20 lacks support for “silicone suds controlling agent” (see line 2) with respect to claim 1 which recites “silicone foam suppressing agent” (see line 12).

Claim 21 lacks support for “said deterative component” (see lines 1-2) with respect to claim 1 to which this claim is dependent upon. Could it be that this claim depend from claim 11?

Claim 22, which is dependent upon claim 21, is rejected as well. In addition, the phrase “the C5-...” in line 31 lacks support with respect to claim 21. It is suggested that “the” before “C5” be deleted.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 7, 9-11, 13-18, 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over et al. (US Patent No. 4,652,392), hereinafter "Baginski" in view of Inamorato (US Patent No. 4,252,664).

Baginski teaches a granular detergent compositions having a controlled suds pattern comprising (a) suds suppressing amount of a stable suds controlling component comprising a silicone suds controlling agent releasably incorporated in a water-soluble or water-dispersible, substantially non-surface active, detergent-impermeable and non-hygroscopic carrier, said component being substantially free of hygroscopic water-soluble inorganic salts and in the form of irregularly shaped particles having a minimum dimension not less than about 0.05 cm and a maximum dimension being at least about 20% greater than the minimum dimension (equivalent to the delayed-release foam suppressing component of the present claims); and (b) a sudsing detergent component like anionic detergents (see col. 1, lines 43-60). The silicone "droplets" in the carrier matrix should be from about 1 to about 50 microns, preferably from about 5 to about

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40 microns, more preferably from about 5 to about 30 microns in diameter for maximum effectiveness (see col. 3, lines 22-26). A very preferred carrier material is a mixture of from about 0.2% to about 15% of fatty acids containing from about 12 to about 30 carbon atoms and balance polyethylene glycol (PEG) (see col. 6, lines 4-10; col. 5, line 54-55). The irregularly shaped particulate silicone suds controlling component can be conveniently prepared in a highly preferred flake form having a thickness of about 0.04 to about 0.15 cm wherein in such flake form, the silicone does not substantially come into contact with the detergent surfactant ingredient when admixed with or incorporated into a detergent composition (see col. 6, lines 16-36). Generally, above about a 2:1, preferably from about 5:1 to about 100:1 weight ratio of carrier to silicone suds controlling agent is employed (see col. 6, lines 53-56). The amount of silicone suds controlling agent in the detergent composition is from about 0.0005% to about 10% by weight (see col. 7, lines 21-25). The detergent composition can contain, in addition to the silicone and detergent, water-soluble builders (see col. 10, lines 9-14). The detergent like anionic detergents include sodium and potassium alkyl sulfates and sodium alkyl glyceryl ether sulfonates (see col. 7, line 35 to col. 8, line 24). The detergent composition can contain all manner of additional materials commonly found in laundering and cleaning compositions, for example, soil suspending agents, enzymes, optical bleaches, fillers, fabric softeners and bleaching agents (see col. 11, lines 16-35). Baginski, however, fails to disclose the incorporation of a foaming component comprising an effervescent granule and surface active components as those recited, the particle size of the gas bubbles as those recited, and wherein the delayed-release foam suppressing component reduces the gas bubbles at least about 40% to about 70% after about 6 to 10 minutes.

Inamorato teaches granular detergent compositions suitable for use in clothes-washing machines (see col. 1, lines 10-13) comprising (1) primary granules of one composition (e.g. spray-dried built detergent) and (2) effervescent granules containing a binder, an acid, a carbonate reactive with the acid (see abstract) (which is equivalent to the foaming component of the present claims), wherein the size of the effervescent granules are in the range of about 0.2 to 3 mm (see col. 4, lines 42-43). The carbonate is preferably sodium carbonate and the suitable acids include organic acids such as citric acid (see col. 1, lines 57-65). Among the materials which may be used as binders are higher fatty acids (of, e.g. 16-22 carbon atoms), polyalkylene glycols (e.g. polyethylene glycols), non-ionic detergents (e.g. polyethoxylation products made by reacting ethylene oxide with fatty alcohol, fatty acid, fatty amine, alkyl phenol or fatty amide, amides), see col. 1, lines 28-39. The proportion of acid in the mixture is preferably at least 5%, e.g. about 10, 15, 20, 30 or 40% and the carbonate is preferably at least 5%, e.g. about 10, 15, 20, 30, 40, 50 or 60% (see col. 1, lines 65-68). The granular detergent composition comprises 5-10 parts of effervescent granules and 9-95 parts of non-effervescing granules or spray-dried built detergent containing nonionic surfactants (see claim 1). One convenient process for making the effervescent granules is to dry-blend the ingredients in finely divided form, then heat the blend to fuse the binder (see col. 4, lines 1-6). The size of the effervescent granules may be varied, e.g. in the range of about 0.2 to 3 mm (see col. 4, lines 42-50). Typical granular spray-dried detergent compositions with which the effervescent granules may be blended generally contain organic surface-active detergents (see col. 4, lines 51-54), such as nonionic surfactants like condensation products of higher fatty alcohols with ethylene oxide (see col. 6, lines 32-39), for example 11 mols of oxyethylene per mol of alkanol (see col. 8, lines 65-68). Often one or more gas bubbles

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become visible at the surface of a particle in water and some or all of the particles, originally more dense than water, begin to rise in the water after a short time (see col. 4, lines 34-38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the granular detergent composition comprising nonionic surfactant and effervescent granules of Inamorato into the granular detergent composition of Baginski because Baginski specifically desires additional materials commonly found in laundering and cleaning compositions and Inamorato teaches such materials suitable for washing fabrics, and to reasonably expect the particle size of the gas bubbles to be 400, 200 or 100 microns or less because Inamorato teaches that one or more gas bubbles become visible at the surface of a particle in the water and thus, the visible bubbles would overlap the particle size as those recited. With respect to the silicone suds controlling agent or delayed-release foam suppressing component reducing the gas bubbles at least about 40% to about 70% after about 6 to 10 minutes, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the silicone suds controlling agent of Baginski to exhibit a similar characteristic because similar components in the silicone suds controlling agent have been utilized.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baginski in view of Inamorato as applied to the above claims, and further in view of France et al. (US Patent No. 5,691,294), hereinafter "France".

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Baginski and Inamorato teach the features as described above. Baginski and Inamorato, however, fail to disclose the surface active agent in the foaming component which is an alkyl N-methyl glucamide.

France teaches the equivalency of ethoxylated alcohols having an alkyl group consisting of 9 to 15 carbon atoms and an average of from 2 to 10 ethoxylated groups per molecule with N-methyl glucamides having an alkyl group consisting of 12 to 18 carbon groups (see claim 4) as nonionic surfactants. See also col. 2, line 36 to col. 3, line 41.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the nonionic surfactants like condensation products of higher fatty alcohols with ethylene oxide of Baginski and Inamorato with N-methyl glucamides having an alkyl group consisting of 12 to 18 carbon groups because the substitution of art recognized equivalents as shown by France is within the level of ordinary skill in the art.

Response to Arguments

10. Applicant's arguments filed February 16, 2006 have been fully considered but they are not persuasive.

With respect to the rejection based upon Baginski in view of Inamorato, Applicants argue that there is simply no suggestion or motivation to combine the teachings of Inamorato with Baginski because the purposes of the respective disclosures teach away from one another, and that one skilled in the art would not look to a reference, such as Inamorato, disclosing the use of a sudsing agent to combine it with a reference directed to controlling sudsing.

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The Examiner respectfully disagrees with the above argument because Baginski, in col. 1, lines 43-60, not only teaches a stable suds controlling component but also a sudsing detergent component. In col. 11, lines 16-18, Baginski also teaches that the detergent compositions (which contains the suds controlling components and the sudsing detergent component) can contain all manner of additional materials commonly found in laundering and cleaning compositions. Inamorato, the secondary reference, teaches a granular detergent composition comprising primary granules (e.g. spray-dried built detergent) and effervescent granules containing a binder, acid and carbonate (see abstract), and which is sudsing. Inasmuch as Baginski specifically desires additional materials commonly found in laundering and cleaning composition, and also teaches the presence of sudsing component, and because Inamorato teaches a sudsing component and which materials are commonly found in laundering and cleaning composition, the combination of Baginski and Inamorato is proper and is maintained.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon

Lorna M. Douyon
Primary Examiner
Art Unit 1751